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Letter dated 12 May 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 4 October 2002 (S/2002/1157).

The Counter-Terrorism Committee has received the attached supplementary report from Brunei Darussalam, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 5 May 2003 from the Permanent Representative of Brunei Darussalam to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In response to the note of 27 September 2002, I have the honour to transmit to you the supplementary report of Brunei Darussalam (see enclosure), as requested by the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001).

(*Signed*) Shofry **Abdul Ghafor**
Ambassador and Permanent Representative

Enclosure

Brunei Darussalam's Supplementary Report to the Counter-Terrorism Committee (CTC)

Aware of the constant need to be vigilant and comprehensive in our approach to counter terrorism, further legislative and administrative measures have been put in place since the initial report was submitted by Brunei Darussalam. Foremost, Brunei Darussalam has enacted the **Anti-Terrorism (Financial and Other Measures) Order 2002** which came into effect on 14 June 2002 criminalising any form of financial assistance to terrorists by any persons. As an indication of how gravely Brunei Darussalam considers terrorist acts, the said Anti-Terrorism Order also prohibits any person in Brunei Darussalam and any Brunei national or company incorporated or registered in Brunei Darussalam from making false threats of terrorist acts. This offence carries a penalty of fine not exceeding B$100,000, or imprisonment for a term not exceeding five (5) years or both. An outline of this Order is given in subsequent paragraph.

Sub-paragraphs 1(a) and 1(b)

It is stated in the report that Section 42 of the Internal Security Act 1984 criminalises the supplying, inter alia, of money etc. to persons who intend or are about to act in a manner prejudicial to public safety or the maintenance of public order. Please provide an outline of Section 42 and of the other provisions of that Act which ensure compliance with the requirements of sub-paragraphs 1(a) and (b).

Answer:

1. **Section 42 of the Internal Security Act 1984** provides that: -

> "(1) any person who whether within or outside a security area demands, collects or receives any supplies from any other person in circumstances which raise a reasonable presumption that he intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies so demanded, collected or received are intended for the use of any person who intends or is about, so to act, or has recently so acted, or for the use of any terrorist, shall be guilty of an offence: Penalty, imprisonment for life.
>
> (2) Any person who whether within or outside a security area is found in possession of any supplies for which he cannot satisfactorily account in circumstances which raise a reasonable presumption that such supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or

the maintenance of public order, or that such supplies are intended for the use of any terrorist, shall be guilty of an offence: Penalty, imprisonment for life."

2. Under **section 2 of the Internal Security Act 1984**, "supplies" includes "ammunition, explosives, firearms, money, food, drink, clothing, medicines, drugs or any other stores, instruments, commodities, articles or things whatsoever".

3. **Section 2 of the Internal Security Act 1984** defines "terrorist" as any person who -

(a) by the use of any firearm, explosive or ammunition acts in a manner prejudicial to the public safety or to the maintenance of public order or incites to violence or counsels disobedience to the law or to any lawful order;

(b) carries or has in his possession or under his control any firearm, ammunition or explosive without lawful authority therefore; or

(c) demands, collects or receives any supplies for the use of any person who intends or is about to act, or has recently acted, in a manner prejudicial to public safety or the maintenance of public order.

4. "Security area", described in **section 30 of the Internal Security Act 1984** is any area in Brunei Darussalam where public security is proclaimed to be seriously disturbed or threatened by reason of any action taken or threatened by any substantial body of persons, whether inside or outside Brunei Darussalam.

Please clarify whether the Internal Security Act prohibits the collection of funds inside the territory of Brunei Darussalam for terrorist acts committed either inside or outside Brunei Darussalam

Answer:

5. **Section 42 of the Internal Security Act 1984** criminalizes "any person who whether within or outside a security area demands, collects or receives any supplies from any other person for the use of any terrorist" and shall be punishable by life imprisonment. **Section 30 of the Act** further clarifies that "a security area" is "any area in Brunei Darussalam". In this regard, the Internal Security Act only prohibits the collection of funds inside or outside of Brunei Darussalam for terrorist acts committed within the territory of Brunei Darussalam only. It does not provide for collection of funds for the purpose of terrorist acts outside the territory of Brunei Darussalam. [This is covered by section 3 of the Anti-Terrorism (Financial and Other Measures) Order 2002 on paragraph 10 of the report.]

Please provide a progress report on the consideration being given to Brunei Darussalam becoming a party to the Convention for the Suppression of the Financing of Terrorism.

Answer:

6. Brunei Darussalam has deposited its Instrument of Accession on 4 December 2002 with the United Nations Secretariat, which entered into force for Brunei Darussalam on 3 January 2003 in accordance with article 26(2) of the said Convention.

Sub-paragraph 1(c)

Please outline the legal or other measures that are available to the authorities in Brunei Darussalam to freeze funds, financial assets and other economic resources on Brunei Darussalam that could be made available in support of terrorist acts committed either in Brunei Darussalam or outside the territory of Brunei Darussalam

Answer:

7. The **Money Laundering Order 2000**, for the purposes of sections 20 and 22 of the Emergency (Drug Trafficking) (Recovery of Proceeds) Order 1996 and sections 21 – 24 of the Criminal Conduct (Recovery of Proceeds) Order 2000, prevents the use of the financial system for money-laundering by establishing procedures and systems for identification, record-keeping and internal reporting.

8. **Emergency (Drug Trafficking) (Recovery of Proceeds) Order 1996** provides for the recovery of the proceeds from drug trafficking. This includes confiscation orders, restrain orders on all realisable property, charging orders in respect of land and securities, and an authority for search.

9. The **Criminal Conduct (Recovery of Proceeds) Order 2000** makes further provision for and applies to confiscation, restraint and charging orders made by the Court in relation to offences committed in Brunei Darussalam, money-laundering and other offences described in the Order. This Order establishes supplementary provisions, inter alia, with regards to powers of arrest, service of documents, authority for search and application for enforcement of external confiscation orders and proceedings.

10. **Section 3 of the Anti-Terrorism (Financial and Other Measures) Order 2002** prohibits any person in Brunei Darussalam, any citizen of Brunei Darussalam and any company incorporated or registered under the Companies Act of Brunei Darussalam to provide or collect funds to any person by any means, directly or indirectly outside of the territory of Brunei Darussalam if the person knows or there are reasonable grounds for him to suspect that the funds will be used to commit any terrorist act or facilitate the commission of any terrorist act. "Funds" includes "cheques, bank deposits and other financial resources". "Terrorist acts" are defined in **Section 2 of the Anti-Terrorism (Financial and Other Measures) Order 2002**. Under **section 12** of the said Order, the Minister of Finance may issue such directives to any financial institution or institutions "in order to discharge or facilitate the discharge of any obligation binding on Brunei Darussalam" by virtue of a decision of the United Nations Security Council with regard to the suppression of financing of terrorism. A failure or refusal to comply with the directives issued by the Ministry of Finance is an offence under this Order which carries a fine not exceeding B$20,000.

Are non-resident individuals and entities allowed to hold funds, financial assets and other economic resources in Brunei Darussalam? Are the existing measures relating to freezing of assets applicable to such assets?

Answer:

11. Non-resident individuals and entities are allowed to hold funds, financial assets and other economic resources in Brunei Darussalam. The existing measures relating to freezing of assets, such as the **Anti-Terrorism (Financial and other Measures) Order 2002** and the **Money Laundering Order 2000** are equally applicable to such assets.

Sub-paragraph 1(d)

Please outline the particular provisions of the Subscription Control Act 1953 that enable monitoring of the use of the funds collected by charitable, religious and other associations to ensure that they are not diverted for use by terrorists operating either inside or outside Brunei Darussalam.

Answer:

12. The **Subscriptions Control Act 1953** provides that written applications shall be submitted to the Ministry of Home Affairs providing such particulars and information requesting permission to collect funds for charitable purposes in accordance with **section 2(1) of the Act**. **Section 2(1)** specifically provides that "no person shall without the prior authority of Minister receive or solicit contributions or subscriptions from any other person –

(a) for any purpose deemed to be a public purpose under this Act; or

(b) for any purpose which the Minister may by notification in the *Gazette* declare by any general or particular description or in any particular case to be a purpose to which this section applies.

13. Under the Act, a purpose shall be deemed to be "public purpose" where-

(a) it relates to an object or matter which is normally the function or concern of Government or any public or local authority; or

(b) it is charitable; or

(c) it is for the benefit of any race or community within Brunei, including a community constituted by virtue of residence within a particular part or parts of Brunei or reference to the members of racial or religious groups so resident;

14. The **Subscriptions Control Act 1953** further provides that: -

- Only citizens of Brunei Darussalam are allowed to conduct collections whose names and copies of the identity cards shall be submitted to the Ministry before collection is approved.

- The Royal Brunei Police Force must be informed in advance before conducting a collection and all the rules and regulations enforced by the Royal Brunei Police Force has to be observed.

- If the collection is intended for charitable organisations, a letter of confirmation from those charitable organisations has to be enclosed with the initial written application.

- Any collection related to Islamic religious activities will be referred to the Islamic Religious Council of Brunei.

- The use of professional bodies to conduct collections is prohibited.

- Each collector will be provided with a pass by the Ministry of Home Affairs which is valid for a limited time only.

- The purpose and conduct of collection other than the one for which the permit is given is prohibited. The mode or conduct of collection should not contradict the rules or laws which are currently enforced in the country particularly the Anti Corruption Act 1981, Subscriptions Control Act 1953 and General Orders (in the event that a government officer is involved in the collection).

- Any application to collect money from outside Brunei Darussalam (foreigners) is not allowed.

- The original copy of the audited statement of account showing the amount of money collected which has been approved and signed by an auditor must be forwarded to the Ministry not later than one month after the completion of the collection.

15. **Section 5 of the Act** prescribes the offences and penalties.

- Where contributions are received without the necessary permit, the penalty for the first offence is a fine of B$4,000 and for second or subsequent offences a fine of B$4,000 and six (6) months' imprisonment.

- Where the contributions or subscriptions were used other than for the purpose for which permission was given, the penalty is a fine of B$4,000 and six (6) months' imprisonment.

- Where a person has in his possession or control funds received or solicited in contravention of this Act, such funds shall be forfeited by the Government.

Sub-paragraph 2(a)

Please provide an outline of the laws or administrative orders that prohibit recruitment in Brunei Darussalam to terrorist groups operating either inside or outside Brunei Darussalam

Answer:

16. The **Societies Act 1972** requires that any club, company, partnership or association of 10 or more persons except as provided under **section 2 of the Act**, to be registered with the Registrar of Societies. Every society shall be registered within one month of its formation and notify the Registrar of its existence and furnish the following particulars as provided under **section 4 of the Act**: -

(a) the name of the society;
(b) the objects of the society;
(c) the address of the society;
(d) the names and addresses of two members of the governing body of the society.

The failure of any society to comply with the provisions of this section shall be an unlawful society.

17. **Section 6(4) of the Act** makes provisions for circumstances in which the Registrar shall refuse to register any society, such as those that may "be used for unlawful purposes or for any purpose prejudicial to or incompatible with peace, welfare or good order in Brunei."

18. Under **section 9 of the Societies Act 1972,** the Minister shall declare a society to be unlawful in the public interest, by public notification if in his opinion that society is:-

(a) a Triad Society; or

(b) being used or likely to be used for intimidation, extortion or any other unlawful purpose; or

(c) is being used for purposes at variance with its professed objects.

19. Under **section 10(1) of the Societies Act 1972**, "no society shall be affiliated or connected with any society outside Brunei without the permission of the Registrar, and the Registrar may at any time make a provisional order for the dissolution of any such society affiliated or connected with any society outside Brunei without his permission."

20. The penalties for managing and participating in an unlawful society are as follows: -

(a) Managing or assisting in the management of an unlawful society carries a penalty of three (3) years imprisonment under **section 16 of the Act**.

(b) Membership to an unlawful society or attending a meeting of an unlawful society carries a fine of B$1,000 and 12 months' imprisonment under **section 17 of the Act**.

21. The **Public Order Act 1984** prohibits quasi-military organisation and illegal drilling, preventing terrorist organisations from using the territory of Brunei Darussalam as training camps. **Section 7(1)(b) of the Act** provides that "if any members or adherents of any association of persons, whether incorporated or not, are organised, trained or equipped for the purpose of enabling them to be employed for the use or display of physical force in promoting any political or other object, or in such a manner as to arouse reasonable apprehension that they are organised or trained or equipped for that purpose" shall be guilty of an offence punishable in the following manner: -

(a) Any member or adherent of an association described under section 7(1) is punishable by imprisonment for three years and a fine of B$5,000; and

(b) Any person who promotes or conspires with another to promote, or takes part in the control or management of the association, or in organising or training any member or adherent is punishable by imprisonment for five years and a fine.

22. Under **section 8 of the Public Order Act 1984** illegal drilling carries the following penalties for any person, other than a member of any security force or of any association specially exempted by the Minister who -

(a) is present at or attends any meeting or assembly for the purpose of training or of drilling themselves or any other person, to the use of arms, or of being so trained or drilled, or for the purpose of practising military exercises, movements or evolutions is punishable by imprisonment for three (3) years and a fine of B$5,000.

(b) trains or drills any other person to the use of arms or the practise of military exercise, movements or evolutions or takes part in the control or management of any association or organisation whose members are trained or drilled in the practice of military exercises, movements or

evolutions is punishable by imprisonment for eight (8) years and a fine of not less than B$8,000.

23. **Section 9 of the Public Order Act 1984** requires that any meetings and processions in public places have a permit issued in the name of the Commissioner of Police to ensure that they will not prejudice the maintenance of peace or good order. In absence of such a permit, it would be deemed that any meeting and procession, which has been organised or convened shall be unlawful. In accordance with **section 11(2) of the Public Order Act 1984**, any police officer above the rank of inspector may stop any unlawful procession and order any unlawful group to disperse. "Unlawful group" means an unlawful meeting or an unlawful assembly.

Please outline the particular provisions of the Public Order Act 1984 and the Arms and Explosives Act 2000 that regulate domestic and international trade in weapons and explosives.

Answer:

24. **Section 17 of the Public Order Act 1984** empowers the Commissioner of Police to give directions, inter alia, for the taking into custody of firearms and ammunition and for the cancellation or suspension of licenses or permits for firearms and ammunition during the continuance of such order. Where the firearms or ammunition have been taken into custody, the Commissioner of Police may destroy or dispose of the firearms or ammunition in a manner he sees fit."

25. **Section 19 of the Public Order Act 1984** provides for the powers to search for and seizure of offensive weapons and "any police officer may in a special area, without warrant and with or without assistance:

- stop and search any person or vehicle, whether in a public place or not;
- enter and search any premises;
- board and search any vehicle, vessel or aircraft.

26. These powers shall be exercisable "for the purpose of ascertaining whether such person, vehicle, vessel or aircraft as aforesaid is carrying, or such premises as aforesaid contain, any offensive weapon, subversive article or injurious thing; or If the police officer concerned has reasonable grounds for believing that any evidence of the commission of an offence is likely to be found on such person or premises or in any such vehicle, vessel or aircraft."

27. **Section 20 of the Public Order Act 1984** provides for disposal of property seized under section 14 or 19 whereby "any offensive weapon, subversive article, or injurious thing coming into possession of a police officer under section 14 or section 19 may be disposed of in such a manner as the Commissioner of Police may order..."

28. **Section 28 of the Public Order Act 1984** provides that "...any person who without lawful excuse, the onus of proving which shall be on such person, carries or has in his possession or under his control:

- any firearm without lawful authority therefor; or
- any ammunition or explosive, without lawful authority therefor"

and found guilty of such an offence shall be punishable by death.

29. **Section 29 of the Public Order Act 1984** states that any person who in any public place carries or has in his possession or under his control any offensive weapon otherwise than with lawful authority or solely for a lawful purpose shall be guilty of an offence punishable by imprisonment not less than one year and not more than ten (10) years and whipping not less than three (3) strokes.

30. **Section 29A of the Public Order Act 1984** states that any person, who in any place, whether or not a public place, and has in possession or under his control any incendiary device shall be guilty of an offence:

(a) punishable by imprisonment for life if the place is in the vicinity of a petroleum pipeline, gas pipeline, water supply pipeline, electrical supply installation or any property declared to be prescribed property to which **section 435(1)(b) of the Penal Code** applies.

(b) punishable by imprisonment for not less that one year and not more than ten (10) years and whipping with not less than three (3) strokes in any other case.

31. The **Arms and Explosives Act 2000** regulates and makes provisions for the manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives. Penalties for the said regulations shall not exceed imprisonment for a term of 15 years, a fine of B$10,000 and 12 strokes of whipping. The Magistrates' Court shall also have jurisdiction for any of the offences provided in this Act and to impose any penalty prescribed not exceeding seven (7) years imprisonment and a fine of B$10,000.

Sub-paragraph 2(b)

Please explain how the relevant authorities in Brunei Darussalam provide early warning of anticipated terrorist acts to other member states

Answer:

32. The Royal Brunei Police Force through its association with ASEANAPOL and INTERPOL could disseminate early warning to member states and the Internal Security Department keeps regular contacts with its counterparts outside the country.

Sub-paragraph 2(c)

Please explain how Brunei Darussalam complies with the requirement of this sub-paragraph

Answer:

33. **Section 6 of the Immigration Act 1958** requires that a person (other than a citizen of Brunei Darussalam) entering Brunei Darussalam is in possession of a valid entry, re-entry or residence permit or pass unless an exemption of such permit or pass applies. A contravention of this section shall be liable to the imprisonment for a term between three months and two years and a fine not exceeding B$6,000. If a person overstays his/her pass or permit, the punishment is imprisonment for a term not exceeding one year or a fine not exceeding B$4,000 or both.

34. Under **section 8 of the Immigration Act 1958**, a person who in the opinion of the Controller of Immigration is a prohibited immigrant shall not be allowed to enter the territory of Brunei Darussalam. Prohibited immigrants include, *inter alia*: -

- Any person who has been convicted in another country of an offence for which a sentence of imprisonment has been passed for any term, has not received a free pardon; and by reason of the circumstances connected with such conviction is deemed by the Controller to be an undesirable immigrant.

- Any person whose entry into or presence in Brunei Darussalam is, or at the time of his entry was, unlawful under this or any other written law for the time being in force.

- Any person who believes in or advocates the overthrow by force or violence of the Government of Brunei Darussalam or of the Government of any territory within the Commonwealth or of constituted law or authority or who disbelieves in or is opposed to organised government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property.

- Any person who is a member of or affiliated with any organisation entertaining or teaching disbelief in or opposition to organised government or advocating or teaching the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or officers generally, of the Government of Brunei Darussalam or of the Government of any territory within the Commonwealth or of any other

organized government, because of his or their official character, or advocating or teaching the unlawful destruction of property.

- Any person who, in consequence of information received from any source deemed by the Controller to be reliable, or from any government, through official or diplomatic channels, is deemed by the Controller to be an undesirable immigrant.

- Any person who, has been removed from any country or state by the government of such country or state on repatriation for any reason whatever and who, by reason of the circumstances connected therewith, is deemed by the Controller to be an undesirable immigrant.

- Any person who, being required by any written law for the time being in force to be in possession of valid travel documents, is not in possession of such documents or is in possession of forged or altered travel documents which do not fully comply with any such written law.

- Any person other than a Brunei Darussalam who is unable to show that he is willing and can of right return to some country outside Brunei Darussalam.

35. Every person entering Brunei Darussalam from any place beyond the territory of Brunei Darussalam shall produce to an immigration officer a passport in accordance with **section 3 of the Passport Act 1984**. A person, other than a citizen of Brunei, shall have a valid visa to enter Brunei Darussalam issued on the authority of and by the Government of Brunei Darussalam unless an exemption of visa applies.

36. Under **section 5 of the National Registration Act 1965**, every person over the age of 12 years, within Brunei Darussalam shall be registered unless exempted under **regulation 25 of the National Registration Regulations**. A person is required to produce his identity card for inspection to such person and at such place as the person making such requirement may think fit in accordance with **section 7 of the National Registration Act 1965**.

37. Any person registering under the National Registration Act 1965, is required to submit two unmounted duplicate photographs showing a true likeness of him/herself, finger impressions and the following particulars: -

- Full name and if known by different names, each of such names;
- Full residential address;
- Race;
- Date and place of birth;
- Sex;

- Any physical abnormalities;
- Status of citizenship; and
- Such other particulars as the registration officer may consider necessary for the purpose of identification in any particular case.

38. Furthermore, the Internal Security Department, Immigration Department, and the Royal Customs and Excise Department would recommend any foreign party and who has been confirmed to be involved in such acts to be put on a list of foreign nationals prohibited from entering Brunei Darussalam.

Sub-paragraph 2(d)

Please explain how Brunei Darussalam prevents its territory from being used for the perpetration of terrorist acts committed outside its territory

Answer:

39. The Royal Brunei Police Force, through its close cooperation and coordination with other national law enforcement agencies, has a working relationship with regional States where intelligence reports and other operations could be shared on equal terms.

40. The Internal Security Department with the cooperation of the Department of Immigration and National Registration has tightened security checks at its various immigration control points by setting up a computer system that links to the headquarters of the Internal Security Department and the Department of Immigration and National Registration. The Internal Security Department also has its officers stationed at those immigration control points.

41. The courts in Brunei Darussalam has criminal jurisdiction over any offences by any nationals committed wholly or partly within the territory of Brunei Darussalam, or on board any ship or aircraft registered in Brunei Darussalam. The court also has criminal jurisdiction where a person outside Brunei Darussalam abets, or conspires to commit, an offence within Brunei Darussalam, whether or not any overt act in furtherance of such conspiracy takes place within Brunei Darussalam. Brunei Darussalam has also established criminal jurisdiction for offences committed within or outside the territory of Brunei Darussalam if committed by a Brunei national. The criminal jurisdiction of the courts can be found in **section 7 of the Criminal Procedure Code**.

42. Where any person is suspected of acting in a manner prejudicial to the security of Brunei Darussalam or the maintenance of public order or essential services, the Minister of Home Affairs may in accordance with **section 3(1) of the Internal Security Act 1984** make an order directing that such person be detained for any period not exceeding 2 years.

43. The **Anti-Terrorism (Financial and Other Measures) Order 2002** criminalises funding for terrorist acts which is defined in **section 2 of the Order**, as the "use or threat of action (whether in Brunei Darussalam or elsewhere)" where the action -

- involves serious violence against any person;
- involves serious damage to property;
- endangers any person's life;

- creates a serious risk to the health or safety of the public or a section of the public;
- involves the use of firearms or explosives;
- involves releasing into the environment or any part thereof, or distributing or otherwise exposing the public or any part thereof to any dangerous, hazardous, radioactive or harmful substance, any toxic chemical, or any microbial or other biological agent or toxin;
- is designed to disrupt any public computer system or the provision of services directly related to communications infrastructure, banking any financial services, public utilities, public transportation or public key infrastructure;
- is designed to disrupt the provision of essential emergency services; or
- involves prejudice to public security or national defence.

Terrorist acts also includes the use or threat of action where it is intended or reasonably regarded as intending to influence the Government or any other government or intimidate the public or a section of the public.

44. Any person in Brunei Darussalam, and if outside the territory of Brunei Darussalam, any national of Brunei Darussalam and company incorporated or registered under the Companies Act 1957 of Brunei Darussalam is prohibited from: -

(a) Any direct or indirect provision or collection of funds by if it is known or there are reasonable grounds to suspect that the funds will be used to commit any terrorist act or facilitate the commission of any terrorist act: **section 3 of the Anti-Terrorism (Financial and Other Measures) Order 2002**.

(b) Dealing with property of terrorists under **section 4 of the Anti-Terrorism (Financial and Other Measures) Order 2002**, namely –

- directly or indirectly, dealing in any property that is owned or controlled by or on behalf of any terrorist or any other person owned or controlled by any terrorist, including funds derived or generated from property owned or controlled, directly or indirectly, by any terrorist or any other person owned or controlled by any terrorist.

- directly or indirectly, entering into or facilitating, any financial transaction relating to a dealing in property referred to in the above paragraph.

- providing any financial services or any other related services in respect of any property referred to in the above paragraph, to or for

the benefit of, or on the direction or order of, any terrorist or any other person owned or controlled by any terrorist.

(c) Providing of resources and services for the benefit of terrorists by making available any funds or any other financial assets or economic resources; or any other financial or related services, for the benefit of any prohibited person: **section 5 of the Anti-Terrorism (Financial and Other Measures) Order 2002**.

Sub-paragraph 2(e)

Please provide an outline of the penal provisions of the laws mentioned in paragraph 5 of the report that have particular relevance to terrorist acts and explain how they meet with the requirements of this sub-paragraph

What is the competence of the courts of Brunei Darussalam to deal with the following criminal acts:

- *an act committed outside Brunei Darussalam by a national of Brunei Darussalam or by a person who is habitually a resident in Brunei Darussalam (whether that person is currently present in Brunei Darussalam or not);*

Answer:

45. By **Section 7(f) of the Criminal Procedure Code** Brunei Darussalam has jurisdiction for offences committed outside the territory of Brunei Darussalam by a subject of His Majesty. "Subject of His Majesty" is defined under **sections 4 and 5 of the Brunei Nationality Act 1962**. Therefore, Brunei Darussalam has jurisdiction for acts committed outside the territory of Brunei Darussalam by nationals of Brunei Darussalam only.

- *an act committed outside Brunei Darussalam by a foreign national who is currently in Brunei Darussalam.*

Answer:

46. By **section 7(a) of the Criminal Procedure Code**, Brunei Darussalam has criminal jurisdiction for any offence committed wholly or partly within the territory of Brunei Darussalam. Brunei Darussalam also has jurisdiction for offences committed on board any ship or aircraft registered in Brunei Darussalam. Therefore, Brunei Darussalam does not have legal jurisdiction over a foreign national who commits a criminal act outside of the territory of Brunei Darussalam.

Sub-paragraph 2(f)

Please outline the current procedures for providing assistance in criminal investigations and judicial proceedings at the request of member states pending the enactment of the Criminal Justice (International Cooperation) Order.

Answer:

47. Brunei Darussalam has an extradition treaty with Singapore and Malaysia allowing for the apprehension, handing over and prosecution of offenders.

48. Requests for assistance from other Member States concerning criminal investigations and judicial proceedings are considered by the Attorney General's Chambers on a case-to-case basis consistent with our national laws. The Attorney General in his capacity as the Public Prosecutor has the general power under **section 374 of the Criminal Procedure Code** to direct and control any criminal prosecutions and proceedings under any written law. These powers may include directing the police to carry out certain criminal investigations such as the gathering of witness statements on behalf of foreign law enforcement agencies. Any request by foreign law enforcement agencies to assist them is forwarded to the Mutual Legal Assistance Secretariat in Criminal Matters in the Attorney General's Chambers through diplomatic channels.

What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings, including those relating to the financing of or support for terrorist acts, must be met and how long does it take in practice to implement such a request in Brunei Darussalam?

Answer:

49. Any request for assistance made to the Royal Brunei Police Force through our ASEANAPOL/INTERPOL department and to the Mutual Legal Assistance Secretariat in Criminal Matters, Attorney General's Chambers would be rendered as soon as that request is received. Feedback and response to be given would depend on the complexity and nature of the investigation.

Sub-paragraph 2(g)

Please provide an outline of the measures that have been adopted for the prevention of counterfeiting and forging of passports and other identity papers.

Answer:

50. The Royal Brunei Police Force and the Department of Immigration and National Registration shares intelligence reports on cases of suspect counterfeit and forged passports, carries out stringent checks on all travel documents and conduct joint operations. Officers at all levels in the Department of Immigration and National Registration undergo continuous training.

51. Under the **Passport Act 1984**, a person guilty of the following offences shall be liable to a fine of B$10,000 and imprisonment of five (5) years: -

(a) forgery, alteration or tampering with any passport or attempts to do so;

(b) making any false document intended to be used as a passport;

(c) personating or falsely representing himself to be or not to be a person to whom a passport or internal travel document has been duly issued;

(d) intentionally obtaining for himself or any other person a passport, internal travel document, knowingly making any false statement or producing any document which is to his knowledge false in any particular;

(e) without lawful authority, has in his possession any passport or internal travel document which was false or misleading, or as a result of making any material statement which was false or misleading, or as a result of the production of false evidence;

(f) allowing any person to have possession of any passport issued for his use alone, intending or knowing that the passport may be used by any other person;

(g) without lawful authority has in his possession any passport or internal travel document issued for the use of some person other than himself;

(h) wilfully assisting any person to enter Brunei contrary to this Act;

(i) wilfully assisting any person to contravene this Act;

(j) obstructing or hindering any immigration officer, police officer or officer of customs in the discharge of his duty under this Act; and

(k) attempting to commit or abetting the commission of any of the offences stated above.

52. Any person arriving or about to leave Brunei Darussalam by sea, land or air shall fully and truthfully answer all questions and enquiries put to him/her to establish his/her identity, nationality, occupation or bearing on any of the restrictions contained in the Immigration Act or any related regulations in accordance with **section 28 of the Immigration Act 1958**.

53. **Section 55 of the Immigration Act 1958** makes it an offence if any person, inter alia -

(a) Makes or causes to be made any false report, false statement or false representation in connection with any obligation imposed by the provisions of the Immigration Act or any of its related regulations.

(b) Gives, sells, or parts with possession of any entry or re-entry permit, pass or certificate in order that the entry or re-entry permit, pass or certificate issued to any other person as if it had been lawfully issued to him/herself.

(c) By making a false statement obtains or attempts to obtain an entry or re-entry permit, pass or certificate for himself or for any other person.

(d) Uses or without lawful authority has in his possession any forged, unlawfully altered or irregular entry or re-entry permit, pass or certificate or other document issued under the Immigration Act or its related regulations, or any permit, pass or certificate or other document so issued on which any endorsement has been forged or unlawfully altered, shall be guilty of an offence.

A person found guilty of any of the above offences shall be punishable by imprisonment for a term not exceeding six (6) months and a fine not exceeding B$2,000.

54. **Regulation 9 of the National Registration Regulations** prohibits any person, other than a registration officer acting in the course of his duty, to make any mark or endorsement or entry upon or erase, tamper, cancel or alter any mark, endorsement or entry contained in, or otherwise deface or destroy an identity card or its duplicate, or transfer an identity card. Furthermore, under regulation 24 of the National Registration Regulations, it is an offence for any person who -

(a) Without lawful authority makes any mark or entry upon, or erases, cancels, tampers or alters any mark or entry contained in, or otherwise defaces or destroys an identity card, or any part of the register kept in the Central Registry, or transfers an identity card.

(b) Without lawful authority or reasonable excuse knowingly obtains or is in possession of more than one identity card, or is in possession of or makes use of a forged identity card or an identity card other than his own.

(c) Forges or reproduces an identity card.

The penalty for any of the above offences carry an imprisonment for two (2) years and a fine of B$5,000.

Sub-paragraphs 3(a), (b) & (c)

Please provide a list of the countries with which Brunei Darussalam has bilateral or other arrangements for cooperation in the matter of counter-terrorism, including extradition

Answer:

55. Brunei entered into extradition arrangement with Malaysia and Singapore and is given effect under the **Extradition (Malaysia and Singapore) Act 1999**. Brunei had also entered into special arrangements with Malaysia and Singapore to allow for the service in Brunei Darussalam of summonses and other process issued by the courts in Malaysia and Singapore, which has been enacted in **Summonses and Warrants (Special Provisions) Act**. Any summons or warrants issued by the courts in Malaysia or Singapore can simply be endorsed by the court in Brunei and thereby enforceable as if the summonses or warrants were issued by the court in Brunei.

56. Brunei Darussalam has bilateral arrangements with Australia, Egypt, Great Britain, Indonesia, Malaysia, New Zealand, Philippine, Singapore for cooperation in counter-terrorism.

Sub-paragraphs 3(d) & (e)

The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Brunei Darussalam in:

- *Becoming a party to the instruments to which it is not yet a party; and*
- *enacting legislation, and making other necessary arrangements, to implement the instrument to which it has become a party*

Answer:

57. The **Convention on the Marking of Plastic Explosives for the Purpose of Detection** as well as the **Convention on the Physical Protection of Nuclear Material** are still under review. Brunei Darussalam signed the **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA)** and its **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf** on 3 February 1989. Brunei Darussalam is in the process of ratifying the SUA Convention and its protocol.

58. Brunei Darussalam deposited its Instrument of Accession to the **International Convention for the Suppression of the Financing of Terrorism** on 4 December 2002 and enacted the **Anti-Terrorism (Financial Measures) Order 2002**.

Have the offences set forth in the relevant international conventions and protocols been included as extraditable offences in bilateral treaties (if any) to which Brunei Darussalam is a party?

Answer:

59. Brunei Darussalam makes extradition conditional upon the existence of an extradition treaty with the requesting country. With the exception of Singapore and Malaysia under which a separate arrangement and legislation is applicable, the current **Extradition Act 1983** adopts a listing method. If the offences set forth in the relevant international conventions related to counter-terrorism includes the acts described in the list, those offences will be covered such as kidnapping, extortion, piracy and will be extraditable.

60. Under **section 10 of the Emergency (Hijacking and Protection of Aircraft) Order 2000**, offences under this Order and attempts to commit such offences are deemed to be included in the list of crimes that are extraditable, which are described in the First Schedule to the **Extradition Act 1983**. Section 10 of the Order also states that where there is no extradition treaty in force between Brunei and another State Party to the **Convention for the Suppression of Unlawful Seizure of Aircraft** or the **Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation**, the Conventions themselves will be treated as if there was an extradition treaty between Brunei and that State Party. Such an extradition arrangement would only be applicable for the offences specified under the said two Conventions.

61. A comprehensive legislative review is being undertaken by the Attorney General's Chambers to all existing laws relating to transnational crime, including the existing Extradition Act as well as those relating to the rendering of mutual legal assistance in criminal matters.

Sub-paragraph 3(f)

Please outline the legal provisions and procedures relating to the grant of refugee status

Answer:

62. Brunei Darussalam does not have legal provisions and procedures relating to the grant of refugee status.

Sub-paragraph 3(g)

Please confirm that the two Acts relating to extradition, namely the Extradition Act 1983 and the Extradition (Malaysia and Singapore) Act 1999 are in force. Please provide outlines of both Acts.

Are claims of political motivation recognised as grounds for refusing extradition of alleged terrorists?

Answer:

63. The two Acts relating to extradition namely the **Extradition Act 1983** and the **Extradition (Malaysia and Singapore) Act 1999** are currently in force. Under **Section 5 of the Extradition Act 1983**, one of the restrictions on surrender of criminal offenders includes an offence "of a political character". Therefore, under the said Act, political motivation may be recognised as grounds for refusing extradition. The Extradition Act is presently under review with the intention to ensure that it is updated in accordance with current international practice.

Paragraph 4

Has Brunei Darussalam addressed any of the concerns expressed in paragraph 4 of the Resolution?

Answer:

COORDINATION AT THE NATIONAL LEVEL

64. Brunei Darussalam remains alert of any potential threat of terrorist acts and preventive measures are undertaken to counter such threat.

65. The Royal Brunei Police Force, the Internal Security Department and the Royal Brunei Armed Forces are the leading agencies responsible for combating terrorism. There are regular official contacts and an open-channel policy exists between these agencies, enhancing cooperation between them.

66. Being aware of the close connection between international terrorism and transnational organized crime, coordination on matters of security through sharing of intelligence and providing logistics support among all relevant enforcement agencies of the country also exists on a wider level than the circle of the Royal Brunei Police Force, the Internal Security Department and the Royal Brunei Armed Forces.

67. There is strict enforcement of the laws and regulations pertaining to immigration and travel documents to ensure stringent checks of people entering the State to prevent entry into the country against undesirable elements, including terrorism.

68. The Narcotics Control Bureau has a close working relationship with the national agency attending the ASEAN Senior Officials Meeting on Transnational Crime and with other enforcement agencies such as the Royal Brunei Police Force, the Royal Customs and Excise Department, the Immigration Department, the Internal Security Department, the Royal Brunei Armed Forces in conducting investigations on drug related crimes.

69. Brunei Darussalam has set up the Mutual Legal Assistance in Criminal Matters Secretariat within the Attorney General's Chambers to consider requests from Member States for judicial assistance.

70. In the effort to suppress financing for terrorism, Brunei Darussalam has established the Advisory Committee on Anti-Terrorism (Financial and other Measures) Order. The National Anti-Money Laundering Committee, composed of relevant national agencies, has also been set up to develop policies and strategies on measures to combat money-laundering activities.

COORDINATION AT REGIONAL LEVEL

71. Enforcement agencies in Brunei Darussalam actively co-operates with their counterparts from other ASEAN member countries through bilateral and multilateral frameworks, mainly in the sharing of intelligence information and best practices.

72. The Royal Brunei Police Force enhances its intelligence gathering capability and exchanges information through ASEANAPOL.

73. The Narcotics Control Bureau actively participates in ASEAN Senior Officials on Drug Matters Meeting and Asia-Pacific Drug Enforcement Conference.

74. The Director of Immigration of Brunei Darussalam maintains close contacts with his counterparts through various mechanisms under the umbrella of the meeting of the Directors General of Immigration and Head of Consular Affairs of Ministries of Foreign Affairs (DGICM). ASEAN's immigration authorities have agreed to work closely, through greater coordination with other ASEAN's law enforcement agencies to prevent movement of terrorists by working toward the establishment of intelligence units in their respective agencies to address trafficking in persons, human smuggling and international terrorism. They have also established an ASEAN focal point directory for ASEAN immigration to exchange information.

75. The ASEAN Ministerial Meeting on Transnational Crime enables ASEAN members to closely cooperate in addressing transnational crimes including terrorism. The Work Programme to implement the ASEAN Plan of Action to Combat Transnational Crime adopted in May 2002 contains a component on terrorism. ASEAN members are now cooperating on the setting up of a regional database for disseminating information on respective national laws, regulations, bilateral and multilateral treaties or agreements of respective countries.

76. The 9th ASEAN Regional Forum (ARF) ministerial meeting in July 2002, Bandar Seri Begawan adopted the ARF Statement on Measures Against Terrorist Financing. The Statement reflects ARF's intention to prevent terrorists and their associates from accessing or using financial systems. The ARF has agreed to take concrete steps in the following areas: freezing terrorist assets, implementation of international standards, cooperation on exchange on exchange of information and outreach, technical assistance and compliance and reporting.

77. Pursuant to the 9th ARF Ministerial Meeting, the inter-sessional meeting on counter terrorism and transnational crimes (ISM on CT-TC) was established to promote cooperation in countering terrorism within the framework of the ARF. The first meeting of the ISM on CT-TC co-chaired by Malaysia and United States on 21-22 March 2003 exchanged views and shared information on the following areas; border security, movement of people and document security. The ISM on CT-TC illustrates a practical measure taken by the ARF in strengthening its cooperation to combat terrorism.

78. The Asia Pacific Economic Cooperation (APEC) Leaders in October 2002 issued a Statement on Fighting Terrorism and Promoting Growth. The Statement commits member economies to further take measures to counter terrorism and to a specific timetable for their adoption. Focus is on three areas namely securing the movement of goods and people, halting financial flows to terrorists and promoting cyber security. In February 2003, Senior Officials endorsed the APEC Counter Terrorism Task Force to oversee the implementation of the measures outlined in the Leaders' Statement on Fighting Terrorism and Promoting Growth. The Task Force is also expected to carry out the following: -

- Assist economies to identify and assess counter-terrorism needs.
- Coordinate capacity building and technical assistance programs, including through consultations with international financial institutions.
- Cooperate with international organizations to implement the Leaders Statement.
- Facilitate cooperation between APEC fora on counter terrorism issues and assist in making recommendations on proposals/projects to Senior Officials.

COORDINATION AT INTERNATIONAL LEVEL

79. As a member of the United Nations, Brunei Darussalam fully supports efforts of the United Nations and its specialized agencies to prevent and eliminate all forms of terrorism in accordance with the provisions of the UN Charter and the relevant United Nations Resolutions. Brunei Darussalam works together with INTERPOL to combat narcotics trafficking and abuse.

80. Within the Commonwealth, Brunei Darussalam also pursues and follows up on necessary actions under the Commonwealth Plan of Action on Terrorism which covers legal and financial issues as well as general measures to counter terrorism.

81. The Narcotics Control Bureau also participates in the Heads of National Drug Law Enforcement Agencies Meeting (HONLEA).

82. During the fourth ASEM Summit in Copenhagen, 22 – 24 September, 2002, the ASEM Copenhagen Cooperation Programme on Fighting International Terrorism was adopted and comprised of numerous short-term, medium-term and long-term activities to enhance cooperation to counter international terrorism and transnational organised crime. Activities include the establishment of an ad hoc informal consultative mechanism enabling ASEM Coordinators and Senior Officials to confer expeditiously on significant international events; increasing cooperation by enhancing customs communication networks, combating financial crime and money-laundering, and improving air and maritime security, while assuring the smooth flow of goods, capital and people; capacity building to enable ASEM partners to work more closely together; and preventing prejudices and building mutual understanding through the efforts of the Asia-Europe Foundation. These activities are additional to the existing ASEM initiatives on transnational organised crime and law enforcement-related matters.

83. Brunei Darussalam actively participates in the Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and related Transnational Crime (Bali Process) which established two Ad Hoc Experts Groups: on Regional and International Cooperation; and on Legislative Framework, Policy Issues and Law Enforcement. The objective of the Bali Process is to give the issue of people smuggling and trafficking in persons and related transnational crime a high profile.

Other Matters

Could Brunei Darussalam please provide an organisational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.

Answer:

84. An organisational chart of the administrative machinery that contributes to compliance with Resolution 1373 is attached as Annex A.

ANNEX A

S/2003/552

TRANSNATIONAL CRIME